

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0836-PWS-E TCEQ ID: RN101451193 CASE NO.: 35917

RESPONDENT NAME: RED ROCK WATER SUPPLY CORPORATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1718 Bridle Bit Road, Flower Mound, Denton County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 5, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558 TCEQ Regional Contact: Mr. Sid Slocum, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5901 Respondent: Ms. Pamela Phillips, President, Red Rock Water Supply Corporation, 1718 Bridle Bit Road, Flower Mound, Texas 75022 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date(s) of Investigation Relating to this Case: February 18, 2008-March 31, 2008</p> <p>Date of NOE Relating to this Case: March 31, 2008</p> <p>Background Facts: The EDPRP was filed on September 23, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The EDFARP was filed on December 3, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on December 5, 2008. The Respondent failed to answer the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference. </p> <p>Current Compliance Status: Not yet in compliance. The Respondent owes \$1,147.00 in past due fees.</p> <p>PWS:</p> <p>1. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].</p> <p>2. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610113 for Fiscal Years 2002 through 2008 to the TCEQ in a timely manner [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].</p>	<p>Total Assessed: \$624</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Due to General Revenue: \$624</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p>a. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer; and</p> <p>b. Pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 90610113.</p> <p>2. Within 45 days, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data.</p> <p>3. Within 60 days, submit written certification to demonstrate compliance with Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	12-May-2008	Screening	19-May-2008	EPA Due	1-Jun-2002
	PCW	18-Aug-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Red Rock Water Supply Corporation		
Reg. Ent. Ref. No.	RN101451193		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35917	No. of Violations	2
Docket No.	2008-0836-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 4.0% Enhancement **Subtotals 2, 3, & 7 \$24**

Notes: Enhancement is due to two Notices of Violation that contain violations that are dissimilar to the violations contained in the current enforcement action.

Culpability 0.0% Enhancement **Subtotal 4 \$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0.0% Reduction **Subtotal 5 \$0**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

0.0% Enhancement* **Subtotal 6 \$0**

*Capped at the Total EB \$ Amount

Total EB Amounts	\$476
Approx. Cost of Compliance	\$76

SUM OF SUBTOTALS 1-7 **Final Subtotal \$624**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment \$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$624

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty \$624**

DEFERRAL 0.0% Reduction **Adjustment \$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$624**

Screening Date 19-May-2008

Docket No. 2008-0836-PWS-E

PCW

Respondent Red Rock Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 35917

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101451193

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement is due to two Notices of Violation that contain violations that are dissimilar to the violations contained in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 19-May-2008		Docket No. 2008-0836-PWS-E		PCW	
Respondent Red Rock Water Supply Corporation		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35917		<i>PCW Revision April 29, 2008</i>			
Reg. Ent. Reference No. RN101451193					
Media [Statute] Public Water Supply					
Enf. Coordinator Stephen Thompson					
Violation Number	<input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and 290.274(c)"/>				
Violation Description	<p>Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.</p>				
Base Penalty				<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
>> Programmatic Matrix					
Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					
Adjustment				<input type="text" value="\$900"/>	
				<input type="text" value="\$100"/>	
Violation Events					
Number of Violation Events		<input type="text" value="6"/>	Number of violation days	<input type="text" value="2190"/>	
mark only one with an x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$600"/>		
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input checked="" type="checkbox"/>			
	single event	<input type="text"/>			
<input type="text" value="Six annual events are recommended for the years in which no CCR was distributed to the customers of the water system."/>					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$476"/>	Violation Final Penalty Total	<input type="text" value="\$624"/>	
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$624"/>	

Economic Benefit Worksheet**Respondent** Red Rock Water Supply Corporation**Case ID No.** 35917**Reg. Ent. Reference No.** RN101451193**Media** Public Water Supply**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$76	1-Jul-2001	1-Jul-2007	6.00	\$23	\$453	\$476
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance**\$76****TOTAL****\$476**

Screening Date 19-May-2008		Docket No. 2008-0836-PWS-E		PCW																	
Respondent Red Rock Water Supply Corporation		<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 35917		<i>PCW Revision April 29, 2008</i>																			
Reg. Ent. Reference No. RN101451193																					
Media [Statute] Public Water Supply																					
Enf. Coordinator Stephen Thompson																					
Violation Number	<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>																				
Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702</div>																				
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610113 for Fiscal Years 2002 through 2008 to the TCEQ in a timely manner.</div>																				
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
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		Falsification	Major	Moderate	Minor																
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
				Adjustment <div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>																	
Violation Events																					
Number of Violation Events <div style="border: 1px solid black; width: 60px; height: 15px;"></div>		Number of violation days <div style="border: 1px solid black; width: 60px; height: 15px;"></div>																			
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>																		
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.																					
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount <div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>		Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>																			
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>																					

Economic Benefit Worksheet

Respondent Red Rock Water Supply Corporation

Case ID No. 35917

Reg. Ent. Reference No. RN101451193

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit associated with this violation.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600635577	Red Rock Wsc	Classification:	Rating:
Regulated Entity:	RN101451193	RED ROCK WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	0610113 0610113
Location:	1718 BRIDLE BIT RD, DENTON COUNTY, TX			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	May 15, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 15, 2003 to May 15, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Stephen Thompson		Phone:	(512) 239-2558

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	10/22/2003	(250982)
2	11/10/2006	(517059)
3	05/09/2008	(654886)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/24/2003 (250982)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)

Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of water at a rate sufficient to meet these requirements.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)

Description: Failure to maintain a system monitoring plan that specifies locations where microbial contaminants will be monitored.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(1)

Description: Failure to compile adequate Monthly Operating Reports.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)

Description: Failure to provide a copies of the signed service agreement with provisions for proper enforcement.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to conduct Customer Service Inspections for the four new connections since the inspection conducted on January 4, 2002.

Date: 11/10/2006 (517059)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)
Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of water at a rate sufficient to meet these requirements.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
Description: Failure to maintain a system monitoring plan that specifies locations where microbial contaminants will be monitored.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(1)
Description: Failure to compile adequate Monthly Operating Reports.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to provide a copies of the signed service agreement with provisions for proper enforcement.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to conduct Customer Service Inspections for the four new connections since the inspection conducted on January 4, 2002.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter A 288.2
Description: Failure to complete a drought contingency plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RED ROCK WATER SUPPLY
CORPORATION,
RN101451193**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0836-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Red Rock Water Supply Corporation ("Red Rock").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Red Rock owns and operates a public water supply facility located at 1718 Bridle Bit Road, Flower Mound, Denton County, Texas (the "Facility").
2. The Facility has approximately fifty one service connections, serves at least twenty five people per day for at least sixty days per year, and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an inspection conducted from February 18, 2008, to March 31, 2008, a TCEQ Public Water System/Supply Program investigator documented that Red Rock:
 - a. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year.

Specifically, Red Rock did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did Red Rock submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.

- b. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610113 for Fiscal Years 2002 through 2008 to the TCEQ in a timely manner.
4. Red Rock received notice of the violations on or about April 5, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Red Rock Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on September 23, 2008.
6. By letter dated September 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Red Rock with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Red Rock received notice of the EDPRP.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Red Rock Water Supply Corporation" (the "EDFARP") in the TCEQ Chief Clerk's office on December 3, 2008.
8. By letter dated December 3, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Red Rock with notice of the EDFARP. According to the return receipt "green card," Red Rock received notice of the EDFARP on December 5, 2008, as evidenced by the signature on the card.
9. More than twenty days have elapsed since Red Rock received notice of the EDPRP and the EDFARP provided by the Executive Director. Red Rock failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Red Rock is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Red Rock failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
3. As evidenced by Finding of Fact No. 3.b., Red Rock failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610113 for Fiscal Years 2002 through 2008 to the TCEQ in a timely manner in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 5, 6, 7, and 8, the Executive Director has timely served Red Rock with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 9, Red Rock failed to file a timely answer to the EDPRP or the EDFARP as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Red Rock and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Red Rock for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of six hundred twenty four dollars (\$624.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Red Rock is assessed an administrative penalty in the amount of six hundred twenty four dollars (\$624.00) for violation of state statutes and rules of the TCEQ. The payment of this administrative penalty and Red Rock's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within thirty days after the effective date of this Order and shall be sent with the notation "Re: Red Rock Water Supply Corporation; Docket No. 2008-0836-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Red Rock shall undertake the following technical requirements:

- a. Within thirty days after the effective date of this Order, Red Rock shall:
 - i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274; and
 - ii. Pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 90610113, as required by 30 TEX. ADMIN. CODE § 290.51. The payment shall include the notation "Red Rock Water Supply Corporation Account No. 90610113" and shall be mailed to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78700-3088

- b. Within forty five days after the effective date of this Order, Red Rock shall submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within sixty days after the effective date of this Order, Red Rock shall submit written certification as described below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions No. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality

Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Red Rock. Red Rock is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Red Rock shall be made in writing to the Executive Director. Extensions are not effective until Red Rock receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Red Rock if the Executive Director determines that Red Rock has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.


On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Red Rock Water Supply Corporation" (the "EDPRP") with the Office of the Chief Clerk on September 23, 2008.

I sent the EDPRP to Red Rock at its last known address on September 23, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Red Rock Water Supply Corporation" (the "EDFARP") with the Office of the Chief Clerk on December 3, 2008.

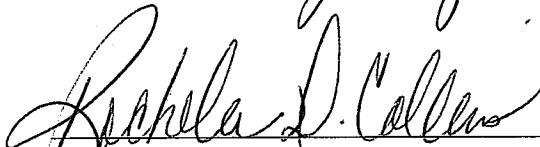
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More than twenty days have elapsed since Red Rock received notice of the EDPRP and the EDFARP. Red Rock failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference."


Stephanie J. Frazee
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 30th day of January, A.D., 2009.



Notary Signature

Notary Stamp

